

### **REMARKS**

This amendment was filed in response to the Office Action mailed August 13, 2008.

Claims 1-5 were amended. New Claims 6-13 were added. Claims 1-13 are currently pending.

### **The Office Action**

The Examiner objected to the drawings, stating Figures 1 and 2 should be designated by a legend as Prior Art since each only shows that which is old. Figures 1 and 2 were amended to this effect and a replacement sheet including these figures is included.

The Examiner objected to page 3, line 26 the Specification because of an informality which was amended to include a comma as suggested.

The Examiner objected to the same paragraph under 35 U.S.C. 112, first paragraph. This paragraph was amended to recite "...and if the waiting time passes without the terminals receiving the content, the terminal requests to download the content from the first server via the dedicated point-to-point transmission channel.", which clarifies that the terminal request to download the content. This is supported in the Specification on page 7, lines 16-21.

The Examiner rejected claim 1 under 35 U.S.C. §103(a) as being unpatentable over Lipsanen in view of EP 0964581 A1 to Koskelainen et al. Lipsanen teaches a hybrid telecommunications system including a DVB-T network server (130) capable of broadcasting broadcast transmissions having large amounts of information such as digital TV broadcasts, and a UMTS/GPRS mobile telecommunications server (120). The Examiner stated Lipsanen teaches the first claimed step of the first server transmitting an identifier specific to a content over a dedicated point-to-point transmission channel to a plurality of terminals registered with said first server as interested in said content.

The Examiner stated Lipsanen does not disclose the second claimed step of said first server transmitting to a second server adapted to provide a broadcast content transmission

service a request to broadcast a message including said content in its entirety. The Examiner also stated Koskelainen et al. teaches an information producer (i.e. the first server) or transmitter transmitting to an operator of the DVB network (i.e. the second server) for transmission of content to the DVB network (i.e. transmitting to request broadcasting through the broadcast network) as stated in the abstract.

Claim 1 was amended to more particularly point out and distinctly claim the second step as said first server transmitting a broadcast request to a second server adapted to provide a broadcast content transmission service, the broadcast request including the content in its entirety and an identifier specific to the content as disclosed on page 7 of the Specification. Koskelainen et al does not teach the second step as claimed. Rather, this reference only teaches a producer of content 11a transmitting content information to a broadcast operator 19 of a DVB network. This transmission does not occur via a request message. Further the transmission does not occur via a request message which includes the content of the entire message to be broadcast, i.e. the "content in its entirety" as claimed in claim 1. Rather, Koskelainen et al, pertains to broadcast transmissions containing a very large amount of information, such as digital TV broadcasts. In Koskelainen et al, due to the large size of the transmission to be broadcast, the producers or transmitters 11a-11c send the information to the operator 19 in a separate medium, such as a video disc or an analogue tape. Therefore, claim 1 is patentable over the combination of Lipsanen and Koskelainen as well as claims 2, 3 and 6-9 depending therefrom.

The Examiner rejected claim 2 under 35 U.S.C. §103(a) as being unpatentable over Lipsanen and Koskelainen stating neither reference teaches the claimed content deliver to the terminal by point-to-point transmission when a waiting timer expires, however this would be obvious due to high power consumption rates of DVB-T receivers in terminals. However, the Examiner has not made a prima facie case of obviousness. Lipsanen teaches a very different way of solving the problem of power consumption alluded to by the examiner than that claimed in claim 2. This reference teaches sending a separate message, not a broadcast message containing the content as claimed, to the terminal stating that a desired broadcast transmission will occur in a specific period of time. This message asks the user to manually confirm whether he or she wishes to view it by sending still another transmission. None of the cited references

teach a way of enabling a terminal to receive the broadcast information except by the broadcast transmission.

Claim 2 claims an automated way of for the terminal to receive the broadcast information via a point-to-point transmission channel should the terminal not receive the broadcast transmission. The Examiner uses hindsight to provide a conclusory argument of obviousness rather than a fully reasoned argument amounting to a *prima facie* of obviousness. Thus, claim 2 is patentable over the combination of Lipsanen and Koskelainen.

The Examiner rejected independent claim 4 under 35 U.S.C. §102(a) as being anticipated by WO 03/045064 to Lipsanen et al. Amended Claim 4 is patentable over Lipsanen et al since Lipsanen et al. does not teach a mobile terminal receiving a message from a broadcast multicast center over a broadcast channel including the content and the identifier sent to the broadcast multicast center from a multimedia messaging services center as claimed. Lipsanen et al. does not teach the multimedia messaging services center sending the content to the broadcast multicast center as claimed. Rather, Lipsanen et al. discloses on page 9, lines 25-31 that if the content is hosted on Telecom Server 120, it is retrieved and sent to the terminal through the UMTS/GPRS network 110. Therefore claim 4 is patentable over Lipsanen et al. as are claims 5 and 10 depending therefrom.

New claim 11 is patentable over the cited references for reasons similar to claim 1 as are claims 12 and 13 depending therefrom.

### CONCLUSION

For the reasons detailed above, it is respectfully submitted all claims remaining in the application (Claims 1-13) are now in condition for allowance. The foregoing comments do not require unnecessary additional search or examination.

In the event the Examiner considers personal contact advantageous to the disposition of this case, he/she is hereby authorized to telephone Patrick D. Floyd, at (216) 861-5582.

Respectfully submitted,


Fay Sharpe LLP

December 15, 2008

Date



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